

REMARKS

The Office Action

Claims 20-39 and 41 are pending. Claims 20, 21, 39, and 41 stand rejected for anticipation by Ansimov et al. (RU 2066350 C1 (abstract); hereafter “Ansimov”). Claims 22-38 stand rejected for obviousness over Ansimov.

Support for the Amendments

The amendment to claims 20 and 39 is supported by the specification on page 3, lines 14-21.

Rejections under 35 U.S.C. § 102

Claims 20, 21, 39, and 41 remain rejected for anticipation by Ansimov. This rejection is traversed. As stated in M.P.E.P. § 2131.01, “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference” (citations omitted; emphasis added).

Amended claim 20, from which claims 21 and 41 depend, recites:

20. A method for alcoholic fermentation, said method comprising employing in said fermentation at least two, different microorganisms:
1) a fermentation micro-organism; and
2) at least one mineral-rich or mineral-enriched yeast;
wherein said mineral-rich or mineral-enriched yeast provides a nutrient source towards said fermentation. (emphasis added)

Claim 39 recites:

39. A fermentation composition comprising at least two, different microorganisms: (1) a fermentation micro-organism and (2) at least one mineral-rich or mineral-enriched yeast, wherein said mineral is a divalent metal, which is provided by the yeast to the fermentation micro-organism in an effective amount for alcoholic fermentation.

A telephone conference with the Examiner confirmed that the present rejection has been maintained based on the assumption by the Office that the fermentation micro-organism and the mineral-rich or mineral-enriched yeast can be the same organism. While Applicant believes that the language of unamended claims 20 and 39 required at least two, distinct organisms, claims 20 and 39 have been amended to emphasize this point. The scope of claim 20 or 39 has not been changed by the present amendment.

As Ansimov does not teach or suggest two, distinct microorganisms, of any kind or in any context, it cannot anticipate the instant claims. Furthermore, as the amendment dispenses with the rejection, it is unnecessary to address the Office's further assertions concerning the inherent teachings of Ansimov, with which Applicant disagrees. The § 102 rejection should be withdrawn.

Rejections under 35 U.S.C. § 103(a)

Claims 22-38, which depend from claim 20, stand rejected for obviousness over Ansimov. In order to establish a *prima facie* case of obviousness, the prior art references, alone or in combination, must teach or suggest all of the claim limitations (M.P.E.P. § 2143.03). As stated above, Ansimov fails to teach all of the limitations of independent claim 20. Thus, Ansimov necessarily fails to teach the limitations of the dependent claims, and the rejection for obviousness should be withdrawn as well.

Entry of the Amendment

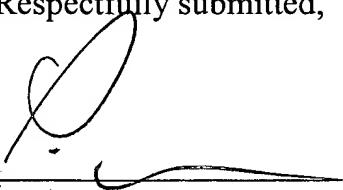
The amendment to claims 20 and 39 should be entered under M.P.E.P. § 714.13 as it (A) places the case in condition for allowance by obviating the sole basis for the rejection, (B) does not raise issues of new matter, as the amendment is fully supported on page 3, lines 14-21, (C) does not present new issues requiring further consideration or search as it is an amendment based on arguments made previously by the Applicant, and (D) does not increase the number of pending claims.

CONCLUSIONS

Applicant submits that the claims are in condition for allowance, and such action is respectfully requested. Enclosed is a petition to extend the period for reply for one month, to and including May 14, 2005. If there are any additional charges, or any credits, please apply them to Deposit Account No. 03-2095.

Date: April 19, 2005

Respectfully submitted,



Paul T. Clark
Reg. No. 30,162

Clark & Elbing LLP
101 Federal Street
Boston, MA 02110
Telephone: 617-428-0200
Facsimile: 617-428-7045